



**SPONSOR:** *Town Administration*

**TOWN OF FRANKLIN  
ZONING BY-LAW AMENDMENT 22-890**

**INCLUSIONARY ZONING**

**A ZONING BY-LAW TO AMEND THE FRANKLIN TOWN CODE  
AT CHAPTER 185, SECTION 51**

**BE IT ENACTED BY THE FRANKLIN TOWN COUNCIL THAT:** Chapter 185 of the Code of the Town of Franklin is hereby amended by adding a new Section at §185-51. Inclusionary Zoning, to read as follows:

**§185-51. Inclusionary Zoning**

**A. Purpose and Intent.**

The purpose of this bylaw is to encourage the development of new multifamily housing that is affordable for rent or purchase to both low and moderate-income households. It is intended that the affordable housing units required by this bylaw consist of at least 10 percent Inclusionary Units as defined below in Section B.

**B. Definitions.**

**Inclusionary Units:** Housing units which the Planning Board finds are affordable for rent or purchase by eligible individuals or households making less than 80% of the areawide median household income as calculated by the United States Department of Housing and Urban Development (HUD) with adjustments for family size, provided there are deed restrictions. Such units will be Local Initiative Program, Local Action Units, in compliance with the requirements for the same as specified by the Commonwealth's Department of Housing and Community Development (DHCD).

**Eligible Household:** An individual or household whose annual income is less than 80% of the area wide median income as determined by HUD, adjusted for household size, with income computed using HUD's rules for attribution of income to assets.

**C. Applicability.**

In all zoning districts, the inclusionary zoning provisions of this section shall apply to the following uses:

- (1) Any project that results in a net increase of five (5) or more multi-family dwelling units, whether by new construction or by the alteration, expansion, reconstruction, or change of existing residential or non-residential space.
- (2) Any life care facility or any elderly persons and/or handicapped persons housing development with five (5) or more dwelling units.

#### D. Permit Process.

The development of any multifamily housing project set forth in Section C above shall be permitted either by right, or through a special permit process. Please refer to Section 185 Attachment 7, Use Regulation Schedule Part VI, Residential uses.

#### E. Special Permit Process.

The development of any project that requires a special permit set forth in Section C above requires the grant of a Special Permit from the Planning Board as the designated Special Permit Granting Authority (SPGA).

- (1) A Special Permit shall be granted if the proposal meets the requirements of this bylaw as well as Section 185-45.

#### F. Provision of Inclusionary Units.

As a condition of approval for a Permit for multifamily housing, the applicant shall contribute to the local stock of affordable units in accordance with the following requirements:

- (1) Ten (10) percent of units shall be offered as Inclusionary Units.
- (2) Units in a multiple unit development subject to this bylaw shall be established as Inclusionary Units in any one or combination of methods provided for below:
  - (a) Constructed or rehabilitated on the locus subject to a multifamily housing Permit (see Section G);
  - (b) Constructed or rehabilitated on a locus different than the one subject to the multifamily housing Permit (see Section H);
  - (c) An applicant may offer, and the Town may accept, donations of land in fee simple, on or off-site, that the Town determines are suitable for the construction of affordable housing units. The value of donated land shall be equal to or greater than the value of the construction of the Inclusionary Units. The Town may require, prior to accepting land as satisfaction of the requirements of this bylaw, that the applicant submit appraisals of the land in question, as well as other data relevant to the determination of equivalent value.
- (3) The applicant may offer, and the Town may accept, any combination of the Section F.(2)(a)-(c) requirements provided that in no event shall the total number of units or land area provided be less than the equivalent number or value of Inclusionary units required by this bylaw.
- (4) Fractions of whole numbers shall be resolved following these rules:
  - (a) Remainder of number less than 0.50 will be rounded down to the whole number.
  - (b) Remainder of number equal to or greater than 0.50 will be rounded up to the next whole number.
- (5) All Inclusionary Units shall be subject to an affordable housing restriction and a regulatory agreement in a form acceptable to the Town's Attorney and the Municipal Affordable Housing Trust. The regulatory agreement shall be consistent with any applicable guidelines issued by the Department of Housing and Community Development and shall ensure that affordable units can be counted toward the Town

of Franklin's Subsidized Housing Inventory. The regulatory agreement shall also address all applicable restrictions listed in Sections G and H below. The multifamily housing Permit shall not take effect until the restriction, the regulatory agreement, and the special permit if applicable, are recorded at the Registry of Deeds and a copy provided to the Planning Board, the Inspector of Buildings, and the Municipal Affordable Housing Trust.

#### G. Provisions Applicable to Inclusionary Units On-site.

- (1) **Siting of Inclusionary Units.** All Inclusionary units constructed or rehabilitated under this bylaw shall be situated within the development so as not to be in less desirable locations than market-rate units in the development, and shall on average, be no less accessible to public amenities, such as open space, as the market-rate units.
- (2) **Minimum design and construction standards for Inclusionary Units.** Inclusionary housing units shall be integrated with the rest of the development and shall be compatible in design, appearance, construction, and quality of materials with other units. Interior features and mechanical systems of affordable units shall conform to the same specifications as apply to market-rate units.
- (3) **Timing of construction or provision of Inclusionary Units.** Where feasible, Inclusionary Units shall be provided coincident to the development of market-rate units, but in no event shall the development of Inclusionary Units be delayed beyond the schedule noted below:

<b>Market-rate Units (% Complete)</b>	<b>Inclusionary Units (Percent Required)</b>
<30%	-
30% Plus 1 Unit	10%
Up to 50%	30%
Up to 75%	50%
75% Plus 1 Unit	70%
Up to 90%	100%
Fractions of Units shall not be Counted	

- (4) **Marketing Plan for Inclusionary Units.** Applicants under this bylaw shall submit a marketing plan or other method approved by the Town through its local comprehensive plan, to the Planning Board for its approval, which describes how the Inclusionary Units will be marketed to potential home buyers or tenants. This plan shall include a description of the lottery or other process to be used for selecting buyers or tenants.

#### H. Provision of Inclusionary Housing Units Off-Site.

- (1) As an alternative to the requirements of Section G above, an applicant subject to the bylaw may develop, construct or otherwise provide Inclusionary Units equivalent to those required by Section F off-site. All requirements of this bylaw that apply to on-site provision of Inclusionary Units, shall apply to provision of off-site Inclusionary Units. In addition, the location of the off-site units to be provided shall be approved

by the Planning Board as an integral element of the multifamily housing Permit review and approval process.

I. Maximum Incomes and Selling Prices: Initial Sale.

- (1) To ensure that only eligible households purchase Inclusionary Units, the purchaser of an Inclusionary Unit shall be required to submit copies of the last three years' federal and state income tax returns and certify, in writing and prior to transfer of title, to the developer of the housing units or his/her agent, and within thirty (30) days following transfer of title, to the Municipal Affordable Housing Trust, that his/her or their family's annual income level does not exceed the maximum level as established according to the data available from the HUD and DHCD, and as may be revised from time to time.
- (2) The maximum housing cost for Inclusionary Units created under this bylaw is as established by the Commonwealth's Department of Housing and Community Development Local Initiative Program, or as revised by the Town.

J. Preservation of Inclusionary Units; Restrictions on Resale.

- (1) Each Inclusionary Unit created in accordance with this bylaw shall have limitations governing its resale through the use of a regulatory agreement set forth in Section F(5). The purpose of these limitations is to preserve the long-term affordability of the Inclusionary Units and to ensure its continued availability for low income households. The resale controls shall be established through a Restriction on the property and shall be in force in perpetuity.
  - (a) Resale price. Sales beyond the initial sale to a qualified affordable income purchaser shall be determined by maximum resale price as defined by DHCD or the Town. The resale price multiplier shall be recorded as part of the Restriction on the property noted in Section J(1) above.
  - (b) Right of first refusal to purchase. The purchaser of an Inclusionary Unit developed as a result of this bylaw shall agree to execute a deed rider prepared by the Town, consistent with model riders prepared by DHCD, granting, among other things, the municipality's right of first refusal to purchase the property in the event that a subsequent qualified purchaser cannot be located.
  - (c) As a condition for a multifamily housing Permit under this bylaw, the applicant will comply with the mandatory set-asides and accompanying restrictions on affordability, including the execution of the deed rider noted in Section J(1)(b) above. The Building Commissioner/Zoning Enforcement Officer shall not issue an occupancy permit for any Inclusionary Unit until the deed restriction is recorded.

K. Conflict with Other Bylaws.

The provisions of this bylaw shall be considered supplemental of existing zoning bylaws. To the extent that a conflict exists between this bylaw and others, the more restrictive bylaw, or provisions therein, shall apply.

L. Severability.

If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Town of Franklin's Zoning Bylaw.

The foregoing Zoning By-law Amendment shall take effect in accordance with the Franklin Home Rule Charter and Massachusetts General Law Chapter 40A, Section 5.

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**DATED:** \_\_\_\_\_, 2022

**VOTED:** \_\_\_\_\_

**UNANIMOUS:** \_\_\_\_\_

**A TRUE RECORD ATTEST:**

**YES:** \_\_\_\_\_ **NO:** \_\_\_\_\_

**ABSTAIN:** \_\_\_\_\_ **ABSENT:** \_\_\_\_\_

**RECUSED:** \_\_\_\_\_

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**Nancy Danello, CMC**  
**Town Clerk**

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**Glenn Jones, Clerk**  
**Franklin Town Council**